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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

v.

MICHAEL CHERTOFF, *et al.*,

Defendants.

Case No. 08-CV-2999 MMC

**DECLARATION OF
 DOUGLAS L.
 BEVINGTON IN SUPPORT
 OF PLAINTIFF'S MOTION
 FOR SUMMARY
 JUDGMENT**

DECL. OF D.L. BEVINGTON IN SUPPORT OF PL'S MOTION FOR SUMMARY JUDGMENT
 08-CV-2999 MMC

1 I, Doug Bevington, declare as follows:

2 1. I reside in Berkeley, California. I am a member of the Center for Biological
3 Diversity. I joined the Center in 2000 because of our common interest in the protection of
4 marine mammals and other imperiled species. I rely on the organization to advocate on behalf of
5 my interests, including the protection of species such as blue, humpback, sei, sperm, fin, and
6 right whales and sea turtles that are found in the waters off the coast of California.

7 2. I care deeply about the conservation of native species and their habitats. My
8 education and professional background are founded on my interest in environmental protection.
9 I have a PhD in Environmental Sociology from the University of California, Santa Cruz, and my
10 doctoral research focused on endangered species policy. I also have a Bachelor's degree in
11 Environmental Sociology from the University of California at Santa Cruz and a Master's degree
12 in Environmental Sociology from the University of Oregon.

13 3. I have been involved in environmental protection throughout my adult life. I have
14 special interest in endangered species and particularly in marine mammals. For more than
15 twenty years, I have acted on this interest by making efforts to see marine mammals and other
16 species in the wild.

17 4. In winter 1986, I took my first whale watching trip in Hawaii. It was then that I
18 first saw humpback whales in the wild. Since that time, I have made regular and frequent efforts
19 to observe whales and other marine life in the wild.

20 5. In spring 1987, I participated in a project to protect nesting habitat for the
21 leatherback sea turtle on the island of Culebra through the organization Earthwatch.

22 6. In summer 1987, I participated in multiple whale watching trips off of New
23 England, seeing fin whales for the first time, as well as humpbacks.

24 7. In summer 1988, I participated in a scientific and conservation study of humpback

25 DECL. OF D.L. BEVINGTON IN SUPPORT OF PL'S MOTION FOR SUMMARY JUDGMENT
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1 whales and other large whales in the Gulf of Maine through the School for Field Studies. That
2 research involved a multi-week trip on a ship to conduct scientific studies of whale behavior.

3 8. During summer 1988, I also worked for Greenpeace because of their marine
4 mammal protection efforts and participated in rallies and other activities in support of marine
5 mammal protection.

6 9. In summer 1992, I worked on a guidebook on the endangered species of
7 California titled "Life on the Edge" edited by Carl Thelander (BioSystems Books, 1994). I was
8 responsible for researching and writing the species accounts of all of the endangered whales in
9 that book. Such research further fueled my knowledge and interest in marine mammals in
10 general and whales in particular.

11 10. Since first moving to California in the fall 1988, I have studied and sought to view
12 the various marine mammals of the Pacific. That winter, I went on my first whale watch to
13 observe the migration of the gray whale from Monterey. I have also gone whale watching in San
14 Diego during the gray whale migration. I have taken numerous whale watching trips through the
15 Oceanic Society to view humpback whales, as well as leatherback sea turtles, near the Farallon
16 Islands. In the past decade, I have focused on whale watching trips through Sanctuary Cruises
17 from Moss Landing to view blue whales, humpback whales, gray whales, fin whales, dolphins,
18 and leatherback sea turtles in the Monterey Bay. I particularly appreciate Sanctuary Cruises
19 because they are the only whale watching boat that has observed a right whale in the area.

20 11. The trips on Monterey Bay provided my first opportunities to see blue whales in
21 large numbers, which has been a truly remarkable experience. It has therefore been very
22 disappointing to me that in recent years numbers of blue whales returning to Monterey Bay has
23 declined, due in part to changes in climate and currents. More recently, much larger
24 concentrations of blue whales have appeared off of Southern California. It was very distressing

1 to me to hear that blue whales were being killed by ship strikes off of Southern California last
2 year. I plan to take a whale watching trip in Southern California this fall. Specifically, the first
3 weekend of October I will be in Southern California and intend to go whale watching out of
4 Long Beach where I would likely have the best chance of seeing blue whales.

5 12. In addition to whale watching trips, I have frequently travelled to the coast
6 specifically to look for whales from shore. I have seen gray whales, humpback whales, and
7 dolphins in this manner on many occasions. And even just knowing that those marine mammals
8 are out there is a source of inspiration, comfort and joy for me.

9 13. Beyond California, I have gone whale watching from numerous other locations
10 around the Pacific Ocean, including multiple trips to Baja since 1993 to visit the gray whale
11 birthing lagoons there, whale watching in the Kenai Fjords of Alaska, and whale and sea turtle
12 watching in Hawaii. Whale watching was also a major part of my honeymoon in Australia in
13 2006. My wife and I drove an extra 1900 kilometers to see the extraordinary right whale nursery
14 at Head of Bight in South Australia. We also went to on a whale watching cruise to see the
15 humpback whales nursery in Hervey Bay in Queensland.

16 14. In sum, I have a strong interest in marine mammals and sea turtles. I have made
17 regular efforts to see them in the wild and intend to continue to do so, including my plans to see
18 blue whales in Southern California this fall.

19 15. The deaths of blue whales last year as a result of ship strikes disturbed me greatly.
20 One of the great benefits of living in California is being able to see blue whales each summer and
21 fall. I dread the day that these animals will no longer inhabit our waters and I will no longer be
22 able to see them. The fact that these wonderful animals are being killed by ships at unsustainable
23 levels is particularly disturbing and raises the prospect that the recovery of this species may be
24 undermined. This would sadden me greatly, both for the whales own sake as well as for its

1 impacts on my ability to observe them. Shipping traffic is only predicted to increase, putting
2 blue whales and other species at ever greater risk. Yet common sense measures such as speed
3 limits can greatly reduce this risk. The Coast Guard's failure to consult deprives whales and
4 other species of the protections they should afforded under the Endangered Species Act, and
5 consequently directly impacts my ongoing interest in their survival. I believe that if the Coast
6 Guard had complied with the Endangered Species Act and consulted with the National Marine
7 Fisheries Service it would likely be forced to adopt better protective measures for endangered
8 whales, which would reduce the risk to these animals and lesson the harm to the whales and to
9 my interests in them.

10 The facts set forth in this declaration are based on my personal knowledge and if called as
11 a witness, I could and would competently testify thereto under oath. As to those matters which
12 reflect a matter of opinion, they reflect my personal opinion and judgment upon the matter. I
13 declare under penalty of perjury under the laws of the State of California that the foregoing is
14 true and correct and that this declaration was executed on August 25, 2008 in Berkeley,
15 California.

16 /s/ Douglas L. Bevington

17 Douglas L. Bevington

18
19 I, Andrea A. Treece, pursuant to ECF General Order 45X.B, attest that Douglas L.
20 Bevington has concurred in and authorized the filing of this declaration with this court.

21
22 /s/ Andrea A. Treece

23 Andrea A Treece

24 Attorney for Plaintiff

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